

SENATE BILL 1623  
By Harper

AN ACT to amend Tennessee Code Annotated, Title 36 and Title 37, relative to family law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 6, Part 1, is amended by adding the following new section:

(a)(1) If the court grants periods of physical placement to more than one (1) parent, it shall order the parent with whom the child is scheduled to reside the majority of the time to provide not less than sixty (60) days written notice to the other parent, with a copy to the court, of his or her intent to:

(A) Establish his or her legal residence outside the state and remove the child from this state for a period of time exceeding ninety (90) consecutive days;  
or

(B) Establish his or her legal residence and remove the child, within this state, at a distance of one hundred fifty (150) miles or more from the other parent.

(2) The parent shall send the notice under (1)(a) of this section by certified mail.

The notice shall state the parent's proposed action and that the other parent may object within the time specified in subsection (b).

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(b) Within fifteen (15) days after receiving the notice under subsection (a), the other parent may send to the parent proposing the move, with a copy to the court, a written notice of objection to the proposed action. The court shall promptly refer the parents for mediation or other family court counseling services pursuant to dispute resolution specifications of the parenting plan and may appoint a guardian ad litem. Unless the parents agree to extend the time period, if mediation or counseling services do not solve the dispute within thirty (30) days after referral, the matter shall proceed under subsections (c) to (e).

(c)(1) Except as provided under subdivision (2), if the parent proposing the move is the parent with whom the child is scheduled to reside the majority of the time, the parent objecting to the move may file a petition to amend the parenting plan. The court may amend the residential provisions of the parenting plan if the court finds that the move will result in a material change in circumstances and that modification is in the best interest of the child.

(A) The court shall consider what is in the best interest of the child.

(B) Under this paragraph, the burden of proof is on the parent objecting to the move.

(2) If the parents have joint decision-making authority under this title and have substantially equal periods of physical placement with the child, either parent may file a petition to modify the residential provisions of the parenting plan. The court may modify the parenting plan if the modification is in the best interests of the child and circumstances make it impractical for the parties to continue to have substantially equal periods of physical placement. Under this subdivision, the burden of proof is on the parent filing the motion to amend the parenting plan.

(d) After a petition to amend the parenting plan is filed under subsection (c), the court may appoint a guardian ad litem and shall hold a hearing as soon as possible.

(e) In making its determination under subsection (c), the court shall consider all of the following factors:

(1) Whether the purpose of the proposed action is reasonable.

(2) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.

(3) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent.

SECTION 2. This act shall take effect July 1, 1997, the public welfare requiring it.